



"The Deponent Is Neither a Rebel Nor a Murderer": Mehurban Khan as Tragic Figure and Subaltern Voice in the Colonial Legal Text of the 1860 Mahua Dabar Proceedings

ABSTRACT

*This paper discusses both the literary and historical document that is the criminal trial proceedings of an accessory to the murder of British officers at Mahua Dabar on 10 Junction 1857, Mehurban Kabaka, a burkundaz (armed constable) of the Captaingunj Tehseildaree. Based on the seminal essay of Gayatri Chakravorty Spivak *Can the Subaltern Speak?* and on the study of the tragedy dramatic tradition and the research on the narrative of wrongful conviction, this paper interprets the depositions of Mehurban Khan as a more or less consistent act of subaltern self-construction: meaningful, self-contained, and ultimately repressed by the institutional framework of the colonial law. The paper will state that the Proceedings are an unwilling literary text where the formal limits of the genre of colonial deposition form a tragic form a figure of dignity and intelligence engulfed not by cumbers of evidence but by the ideological biases of the court. The analysis follows in five movements along with the following: the formal properties of the deposition as a literary genre; close reading of the literary strategies of Mehurban Khan to establish his narrative voice; the construction of guilt through the manipulation of the evidence; the tragedy of non-recognition by the institutions; the value of the corrective letter by G. Couper considered a metacommentary on the subject of colonial juridical performance. It is the conclusion of the paper that the voice of Mehurban Khan, unheard, persistent, and constant is one of the brightest examples of the colonial archive of what Spivak termed as the constitutive impossibility of subaltern speech in the frameworks of imperial epistemologies.*

Keywords: subaltern studies, colonial legal discourse, Spivak, wrongful conviction narrative, 1857 Indian Rebellion, Mahua Dabar, tragedy, deposition genre, postcolonial literary criticism

INTRODUCTION: THE ARCHIVE AS INVOLUNTARY LITERATURE

On 30 June 1857, a man, the name of Mehurban, a kind of burkundaz (armed constable) of the Captaingunj Tehseildaree in the Basti district of the North-Western Provinces, came before Mr Peppe, in the capacity of a magistrate, and was interrogated on the customary question. I responded:



the name of my father is Buhram Kahn. My name is I am a resident of Mohwa Dabur, pergunnah Nuggur, and I am 36 years old, a servant by profession. Then he was questioned whether he had been among the British officers massacred at Mahua¹⁰ Dabar twenty days previously. He replied, bluntly: The deponent did not go with the Sahebs to Mohwa Dabur(Proceedings, No.10).

This denial--uniform, categorical, and with minute elaboration and detail covered in four different depositions spread over three years--was at last laid aside. Mehurban, Khan was found guilty in October 1860 as an accessory before and after the fact in the killing of five British officers and was sentenced to life transportation. Not because evidence against him was beyond all doubt, but because the court had inferred guilt through the circumstance, association, and impossibility of an architectural nature of the subject of subaltern being believed against the unanimous witness of the colonial officials, had he been found guilty (Proceedings, No. 9).

It is not stated in the paper that Mehurban Khan is guilty or not guilty, and it is a historic ruling that cannot be justified by the evidence that has ever existed. It asserts what is more modest, and much more comprehensive, that his voice, as it comes down in the colonial record, is fit to be read as literature; that the history the proceedings are telling itself is a history of tragic error; and that it is both scholarly and moral duty to take care of this voice.

THEORETICAL FRAMEWORK

Can the Subaltern Speak? — Spivak's Challenge

The 1988 essay of Gayatri Chakravorty Spivak, *Can the Subaltern Speak?* is the invulnerable theoretical point of reference to any investigation of how to retrieve the voices of the dispossessed in colonial archives. Spivak does not argue that colonial subjects were silenced, that much is very apparent, but that the discursive conditions of production of colonial knowledge structurally preclude any actual subaltern speech. To speak, in the Spivakian use of the word, does not simply mean to utter some utterances but to be listened to in an epistemological context in which the speaker is accepted as a valid object of knowledge. Such a framework is, she says, not to be found in the colonial archive; it documents the voices of the subalterns only insofar as they can be usefully put to the administrative and juridical tasks of the colonial state (Spivak 271313).



The example provided by Spivak is the widow on the funeral pyre a character whose voice is gagged twice, once by patriarchal tradition and another by her colonial reformist discourse, which speaks on her behalf but not to her. The comparison to Mehurban\Khan is educative. His voice is found in the colonial record, however, in a juridical form in which its parameters are already known: it can respond to the questions that it is addressed with, but it cannot ask its questions; it can provide a counter-narrative, but only within the formal parameters of the deposition genre; and it is judged by an institutional apparatus whose epistemic commitments make it structurally incapable of believing what it hears. It is what the deponent said when Mehurban Khan wrote, The deponent is no rebel, nor a murderer, nor a party to the murder of any of the sahebs--but his words are written, are heard only as the anticipation of a man of guilty mind (Proceedings, No.10).

But one happens to read between the lines of an argument by Spivak a possibility that this paper aims to take advantage of. The subaltern is not able to talk under discursive conditions of colonial power, but the conditions are not absolute and uninterrupted. The traces of subaltern voice that surpass their purpose are inadvertent products of colonial legal writing, which was written with administrative and not literary intent. It is just this sort of deposition record of Mehurban Khan: a piece of writing that when read against the grain of its institutional intent gives something that the colonial apparatus could not entirely hold or repress.

Tragedy and the Colonial Subject

The Western tradition of tragedy, which runs back to Aristotle, through Hegel, to the theorists of tragedy in the twentieth century, is focused on the epistemic status of recognition. Aristotle finds the climax of tragedy in the anagnorisis the critical point of revelation when the true nature of the protagonist and the situational circumstances are revealed, but usually too late to prevent a disaster (Aristotle, Poetics 1452a). Hegel argues that tragedy sums up the conflict of equally grounded moral occurrences that all have a valid claim that cannot be entirely disproven through the denouement of the play (Hegel, Aesthetics 11951215). Modern critics like Terry Eagleton also claim that tragedy is actually about the destruction of value the destruction of that which is truly good and deserving regardless of whether the loss is deserved or not (Eagleton 130).

The story of Mehurban Khan corresponds to these schemes with disturbing accuracy. The anagnorisis that was obligatory in the Aristotelian tragedy--the point where the reader sees the real nature and situation of the main character--appears to the reader of the Proceedings but never to the



court of the colonies. The extraordinary corrective correspondence of Secretary Couper, which reveals the factual errors of the judgment of the Special Commissioner, and still reinstates the conviction, was a recognition which was partial: the colonial institution admits that it had erred in its procedures, but it cannot carry through on its own corrections to their legitimate conclusions. Thus the tragic architecture is created, where the recognition is structurally denied; the institutional state of the colonial legal discourse makes it impossible to observe the genuine character of the protagonist and make him feel that he is recognized by the only party that has the power to change his destiny.

This paper does not claim that Mehurban Khan was innocent, only that his defense made sense, was well-developed and not sufficiently covered by the prosecution. It is this gap between the quality of his story and the kind of institutional reaction it got that is the tragic dimension of the matter. Whether, as a matter of fact, he was guilty, or not, he was guilty by decree, convicted not by the facts, but by the system of epistemology of a tribunal which essentially could not bring his testimony higher than that of colonial officials.

Wrongful Conviction Narrative as Genre

The literature on the history of wrongful convictions, beginning with the legal-literary studies of Robert Weisberg through the cultural studies of exoneration stories by Sandra Guerra Thompson, has found that there are a group of recurring formal and thematic characteristics that are characteristic of texts where allegedly innocent or possibly innocent persons are convicted and sentenced by the legal system. These characteristics are: the presence of a consistently detailed counter-narrative by the defendant; the misinterpretation or repression of exonerating evidence; the official privileging of witness testimony; the juridical imposition of narrative closure on the open-ended account of the defendant; and a retrospective readability whereby the record of the case is found to be insufficient in the light of subsequent criticism of this record (Thompson 3–45; Weisberg 5578).

All of these features can be seen in the Proceedings of Mehurban Khan. His counter-story is not just a refutation but an intensively recreated chronicle which is internally consistent among various depositions over three years. The court rejects the exculpatory evidence which he produces, such as a list of the names of the real murderers themselves, which they had been gathered together under the instructions of the tehsildar, but never discusses on its merits. The institutional witnesses whose testimony allows him to be convicted have a provable official concern about the need to reassert



allegiance to colonial rule. And the corrective letter of Secretary Couper, three years later than the first depositions, with its notice of factual error in the judgment, and its observation that there is one point in the entire case upon which it is more likely that matters are true than otherwise, retrospectively sounds like partial admission of what should have created reasonable doubt (Proceedings, No. 11)

III. THE DEPOSITION AS LITERARY FORM: CONSTRAINTS AND AFFORDANCES

Genre and Power: What the Q&A Structure Permits and Forecloses

The colonial deposition is a highly restrictive literary genre. The form of Q&A that is chaired by a colonial magistrate whose questions determine the space that can be used to respond to it is designed not to generate narrative but to capture fact, to draw out details as opposed to listening to stories. The defendant is not free to narrate, he can only respond. He is unable to initiate evidence; he can only react to evidence given by other people. He is not able to speak in the court but rather his speech needs to go through the filtering of the colonist magistrate and thus help dictate what is considered to be relevant, admissible and finally what is recorded. The imbalance is absolute the court talks; the defendant reacts.

But the record of deposition of Mehurban Khan is more than that. He develops, within the limitations of the form, a continuous, steady narrative of his own innocence--a narrative which cannot be read quickly, simply because it is not placed on a sustained form, broken by the inquisitions of magistrates, and never permitted to descend to a form of narrative. As literary documents, and not as administrative ones, his depositions will show us a man of no little intellectual power, of integrity, of literary power, of a defendant who clearly understands the character of the case brought against him, who gathers evidence on his own behalf, and who retains the necessary consistency of his testimony in the face of long-sustained institutional pressure.

Due to the formal limitation of the deposition, a certain tenor of pathos is also developed. The voice of a speaker in a novel or in a dramatic monologue may be adjusted, that is, it may be fastened and slowed down, it may insinuate on what is dear, move in and out of formality and intimacy. Mehurban Khan has none of such resources. His strongest passages, his denial of categories, his list of the real murderers, his narrative of being given official instructions, are put into a medium that subordinates all utterances to the same administrative level. The emotional and



moral force of his utterances must then be deduced there out of their meaning in defiance of the chilling effect of the form in which they are expressed.

The Ritual of "The Usual Question": Identity under Interrogation

Throughout the proceedings, Mehurban Khan answers the usual interrogatory three times, with each time showing slight but significant differences. He identifies himself in his first deposition dated June 1857 as a resident of Mohwa Dabur, pergunnah Naggur in reference to his age of 36 years as a servant by profession. In February, 1859, he adds to this statement the adverbial clause Patan by caste and places himself as having served Government as a Burkundaz. In the dying memo of August of 1860, the register of his whereabouts changes significantly: he reports service to the Rajah of Nuggur and an escape to the western provinces, which the court uses to urge its case of culpable flight although he puts it in the form of an excuse of his tardiness in appearing after the general amnesty (Proceedings, No.10).

Every single version of identity is not a simple reporting of the fact but a rhetorical maneuvering that is well formulated to create a self-portrait that could be credible by the adjudicatory body. When he replaces the term servant by the word Burkundaz who served Government, Khan is, it would seem, claiming a certain institutional validity, which he hopes will add some credibility to his testimony, as opposed to that of his opponents.

However, the plan backfires: the court continues to place more evidentiary weight on the testimony of other government officials, which exposes a structural tragism, which informs the analysis of this paper.

IV. CLOSE READING: MEHURBAN KHAN'S NARRATIVE VOICE

The First Deposition (June 30, 1857): Establishing Innocence

The first deposition was made by Mehurban Khan to Mr. Peppé, who happened to be the same indigo planter and the estate manager as had been in command of the punitive force that had swept Mahua Dabar barely three weeks before. The institutional paradox of having an individual behind that destruction as the inquiring magistrate beams as examiner is, as it were, missing in the Proceedings. Khan, who was quite aware of the identity of Pepppe and of what he had done, yet gave evidence, an action in itself a show of manliness in such a situation.

His story is characterized by detail. He confirms the appointment of him by the tehsildar, named Abdool, to communicate with the British officers; that the thannahdar had closed the doors of his home against the sahebs; that the jemadar had under his own sanction, appointed three burkundazes, namely, Outar, Golab, and Salar Buksh, to escort the fugitives; and that the day after the massacre Khan himself had been sent to ascertain the names of those who had committed the murder. He provided a written report listing the guilty parties an item that he argues he had discovered through his investigation and then recorded in the thannah diary.

The rhetoric construction herein this deposition is conspicuous. Khan does not just disprove charges, he provides a well-rounded counternarrative with documentary artefacts, identified witnesses, and a detailed description of his own official behavior. His list of murderers - Goodar Khan, Nubba Khan, Ameer Khan, Syfe Khan, Ruzza Khan, Sheikh Jummin, Sheikh Mudara, Sheikh Durab, Sunnadar Kahn... of nearly thirty names, in many of the villages - is the evidence of a man who has thoroughly compiled his case, and not of a man who has put in a perfunctory defense.

It is instructive how the court reacts to this body of evidence. The Special Commissioner rejected the list as credible instead of investigating its quality, e.g. by trying to find corroboration that the names mentioned were being written into the thannah diary, the Special Commissioner rejected it as absurd, with the words, It is incredible also, that the prisoner should have been told to keep a paper which he could not read, and which was so important to the case (Proceedings, No. 9). The argument of literacy is compelling. The fact that Khan is illiterate, a state of being which was brought about by the same colonial apparatus that now charges him, is used to cast doubt on his credibility. The fact that he cannot read the document rules out any possibility of a legitimate authorship of that document and he completes the epistemological circle.

The Second Deposition (February 23, 1859): Elaborating a Counter-Narrative

Nearly two years later, when Mehurban Khan was deposed again, the story has considerably grown fatter with an evidence of a more refined structure of argument. Mr. Lumsden, the Joint Magistrate of Goruckpore directly faces the charge, saying: The deponent is neither a rebel, nor a murderer, nor an accomplice in murdering any of the sahebs. He was Government a Burkundaz in tehseeldaree of Captain-gunj” (Proceedings, No.10).



Much attention should be paid to the opening proclamation. Its triple negation; neither rebel, nor murderer, nor accomplice, resembles the three-fold accusation that the colonial legal machine had made against him. His positive statement, as he served Government, is the answer that the institutional loyalty gives the charge of treason. In the deposition, the deponent pronoun is kept at a distance of the third person, a canon of the deposition practice in colonial times that attempts to remove the declarant himself out of his own statements, although he tries to impose himself on those statements. In this sense, the paradox of Spivak is entrenched even in the very syntax of the form: in the process of speaking in the context of the colonial deposition, the person in question is forced to speak of himself in an outside position, thus exposing his subjectivity to the disciplined practices of the institution.

Khan then reconstructs the history of 10 June 1857 chronologically. He has given a plausible explanation of why the British officers found themselves in the hands of burkundazes who did not have any formal mandate in their mission when he gives an account of the institutional disjunction at the office of the thannahdar, the gates closed, repeated petitions, and the jemadar taking unilateral authority. He lists the name of the three burkundazes, Outar Singh, Golab Khan and Salar Buksh who actually accompanied the sahebs, says that one of them, viz. Outar Singh, returned to the catchery of the tehseeldar on the same evening, and reported that the sahebs had been killed at Mohwa Dabur by the inhabitants there (Proceedings, No. 10).

The question presented by this story, which the court never properly discusses, is, whether Mehurban Khan was the main instigator of the massacre, how does it happen that in the very next morning, he goes back to the tehsildar and willingly gives the names of the murderers? The reaction of the court that the list was created in order to avoid suspicion is not unreasonable but is not supported. The alternative to which Khan himself resorts, that it was a list made on official direction and that his reappearance was a want of disguise, is just as consistent with the facts on record, and is not subjected to any careful examination.

The Third Deposition (August 17, 1860): Persistence and Erosion

Mehurban Khan had three years to spend in custody or in flight before he made his last deposition before Special Commissioner Swinton. His evidence is the same in substance, but now it contains an admission to accentuate both his weakness and his manliness: That he had been in the rebel Rajah of Nuggur, and had fled into the western provinces after the proclamation of Amnesty.



His explanation is as follows: the deponent had been the servant of the Rajah of Nuggur, with whom he had fled to the western provinces; and that he was coming back to his family at Burhumpore, Mohwa Dabur had been reduced to the dust; and that the deponent was then coming back, when his putteedar had him arrested (Proceedings, No. 10).

It is an exceptionally dense utterance. The interjection of Mohwa Dabur levelling the ground, serves as a factual note, a parenthesis, of fact: the village where he lived in had no more existence, thus, describing why he could not go back. It also prefigures the greater atrocity that surrounds the entire case on the part of the attentive reader. Khan does not make a comment about the burning of his village, he has not the institutional space to make a comment. However, his words the confined way of documenting the demolition of his home and the cause of this demolition. The curt language of the official title represents a kind of literary compression: the whole event of group punishment is condensed into a subordinate clause.

The reason why Khan did not stay is explained by him as a flight with the retinue of the Rajah and then a subsequent attempt of returning under the Amnesty is put forward as an exculpatory not incriminating reason. The court on the other hand interprets it as one of the pieces of evidence of guilt. In the colonial law tradition of epistemology, escape will always be an indication of guilt; the alternative that someone may escape not due to an act of guilt, but due to a topography that was recently toppled by systematic destruction is never taken into consideration.

Cross-Examination as Literary Act

One of the most disclosive parts of the Proceedings is a series of passages where Mehurban Khan puts himself questions to witnesses of prosecution. The format of the colonial deposition gave the defendants a limited right to cross-examine witnesses by way of proposing questions, and Mehurban Khan uses it very tactfully.

Mehurban Khan, the professional spy, whose testimony is the basis of the prosecution, asks Badul Khan, when confronted, how far his house is from Mohwa Dabur. The answer, which is that, Depons house is at the four gun-shots distance of Mohwa Dabur, is used to show that Badul Khan is not aware of whatever is happening in the village. He then asks questions that are intended to demonstrate inconsistencies between the successive depositions of Badul Khan, as well as to prove that his principal witnesses are family members of the key witnesses of the prosecution, meaning that their evidence is not independent but rather coordinated (Proceedings, No. 10).



Such cross-examination tactics represent the archetype of a man who has not only understood the evidentiary system but has also taken the time to consider the reasoning behind the case against him and attempted to use the few tools at his disposal to expose the flaws. They also mirror the condition of a person who does not have an attorney, does not have an institutional advocate, and does not have any avenue of forcing an inquiry that can prove him right. His cross-examination questions are incisive, razor-blast, ultimately useless, not in that they never clarify defects in the case presented by the prosecution, but because the court does not follow them in their logical effect.

THE CONSTRUCTION OF GUILT: EVIDENCE, INFERENCE, AND NARRATIVE CLOSURE

The Geometry of Guilt: Route, Delay, and the Cartographic Argument

The most advanced argument presented by the prosecution is the spatial one. A map, drawn by the thenahdar, to show that the British officers were led on an unnecessary circuit, crossing the river twice, instead of by the road which led directly to Gai Ghat, is contained in the Proceedings. According to Special Commissioner Swinton, the map prepared by the thannahdar shows that the Europeans did not take the direct road even to Mohwa Dabur, but crossed the river twice, where there was no necessity to cross it at all. This was necessary to buy time; and it would then be quite likely that it was necessary to provide that some one might proceed before it to make preparations (Proceedings, No. 9).

The cartographic argument is rhetorically strong, but also evidently weak. It determines that the path was a winding one but does not tell who decided the path and why. The deposition even of Mehurban Khan provides a different reason: the direct line to Gai Ghat passes through a country which, in June 1857, during a general mutiny of the district, might have been considered unsafe. More importantly, his narrative always puts him as arriving back to the tehseeldaree prior to the arrival of the officers at Mahua Dabar,--a statement which, had it been substantiated, would have rendered impossible his giving the directions of the road. The answer of the court is titular but not rebuttorial: it states that, there appears no doubt that the evidence of the Tehseeldaree officials is unanimous without questioning the veracity of the return narrative of Mehurban Khan (Proceedings, No. 9).

The map also serves the Proceedings both as a literary symbol and a legal exhibit: it is spatializing the guilt, making the winding course visible as a visual metaphor of seduction. It is on this visual story that Mehurban Khan has his verbal counter-narrative of keeping three years of



depositions. Colonial law geometry, similar to colonial cartography geometry, can hardly be called neutral.

The Bloody Sword: Contested Symbol and Evidentiary Instability

The most vividly dramatic evidence of the guilt of Mehurban Khan is the testimony of Binda Pandey that he presented himself at Bichapar village with a drawn sword in search of Sergeant Busher, the only British officer that had escaped, and that his sword was bloody. The fact that this point is inherently false can be learned by a corrective letter of Secretary Couper: that the prisoner was actually seen with a bloody sword by one of the witnesses, but that the witnesses (by the papers sent) testified to the contrary, that they saw him carrying a drawn sword (Proceedings, No. 11).

There is a difference in the meaning of a bloody sword and a drawn sword. A drawn sword is only evidence of threatening or possibility; a bloody sword is a sign of raw bloodshed. The fact that the Special Commissioner made a mistake when transcribing his words, that is, he spelled drawn as bloody, turns the equivocal testimony into the ones that prove to be conclusive. The correspondence of Secretary Couper rectifies this decline and at the same time maintains the conviction on another principle. The correction is therefore performative as opposed to consequential: it demonstrates the interest of the colonial government in procedural correctness but it is not worried of whether the procedural failure could have influenced the verdict.

The bloody sword is working in the Proceedings as a loaded signifier--a visual image which focusses the emotional and moral value of the story and, by its intensity, seems to clear up the ambiguities in the world around it. Its instability of evidence, the fact that the wrong word was used, that the blood was a transcription mistake, shows that the power of the symbol lies in rhetoric and not material evidence. The court was influenced by a story, and not empirical evidence; and that story needed blood.

The List: Document, Literacy, and the Trap of Evidence

It is, possibly, the most suggestive piece of the Proceedings of the court, the list, written by Mehurban Khan, of the people who had been named as murderers. According to his own testimony, the document put together by taking into account the information that was obtained through his official investigation and then recorded in the thannah diary is his primary exonerating piece of evidence. Even the very fact of its existence indicates a man who is operating in the colonial



administrative machine as opposed to an insurgent: he is presented as diagnosing the perpetrators, gathering evidence, and performing his duties as an official.

The response of the court, as we have seen, is to arm the fact of the professed illiteracy of Khan: how could a man who was not literate make a document? This premise works to overturn the evidentiary logic. That the list was copied by a named putwaree as Khan says, does not destroy its representational loyalty to his inquiry; in a world of general illiteracy it was the custom of the literate intermediary to copy the results of an investigator. The fact that the court ruled out this explanation without even looking at whether the thannah diary did contain an identical entry is a breach of simple investigative procedures.

This is ironic since the list itself itself is preserved in the Proceedings. It refers to about thirty people in four villages, who were grouped based on the property that the victims had in their possession. The document is also somewhat specific and organizationally advanced, which questions the portrayal of the prosecution in its description of Khan as a perpetrator, as opposed to an investigator. The fact that the list was (or was not) created at the direction of Khan, indicates that there was some degree of investigative work, which is hard to associate with the supposed involvement in the massacre.

G. COUPER'S LETTER: METACOMMENTARY AND THE PERFORMANCE OF JUSTICE

The last of the Proceedings is a letter written by Secretary G. Couper, 6 October 1860, and which is certainly one of the most curious in the colonial judicial archives. Written by Nynee Tal, the letter begins by telling that Special Commissioner Swinton that he has not been as punctual in his judgments on the evidence as he ought to have been, and lists three factual errors in his judgment. Couper then supports the belief and the life sentence of transportation (Proceedings, No. 11).

The literary value of the letter is its metacommentary role: it goes beyond the proceedings itself, evaluating it, indicating its inadequacies, but does not allow the inadequacies to determine the logical conclusion. An example is that, in the entire case, Couper sees, there is less doubt over one thing than the other, which is that Mehurban Khan did not take the fugitives to Mohwa Dabur, the very thing, which the prosecution had to prove, to bring to light the role of the saheb, which was the head of the fugitives. Such concession when adhered to strictly ought to have yielded appeal grounds or retrial grounds. Rather, Couper maintains that, although Khan was not necessarily with



the fugitives, he must still have been nearby, which, as a prosecution by innuendo, abandons the initial charge in favour of a new, less precise one.

The example of the letter of Cooper can be taken as the illustration of what can be called the performance of the colonial judicial scruple: the interest in procedural correctness that does not upset the substantive decision deliberately. The Special Commissioner goes wrong by admitting his mistake in designating a sword as bloody, claiming the wrong date of arrest, doubting the validity of some of his conclusions: this way, Couper demonstrates that the colonial administration is not quite blind to the standards of evidence. However, by supporting the conviction, resting upon the principle of a powerful presumption, and a circumstantial inference, he indicates that these principles finally give way to the necessity of obtaining a conviction. Justice is not carried out, but is done.

As a piece of literature, the letter written by Couper is ironic to the point. Its cautious, graded tones, bureaucratic, qualitative, scrupulously aware of the shapes of procedure, is the voice of a paper which feels it is dispensing justice. However, its text shows the inability of colonial justice: it can rectify the record, but not the result; it can mention a point of the case beyond reasonable doubt in favour of the plaintiff and still sentence him to life imprisonment.

THE TRAGIC STRUCTURE: RECOGNITION WITHHELD

The triadic action of hamartia, peripeteia, and anagnorisis, as described in the modern literature of tragedy, plays out leading to tragedy through a series of events to disaster. The model assumes the existence of a hero of high stature that the loss of him will be felt, a compromise that the person possessed values worthy of being preserved. The least appropriate response to the juxtaposition of inherent value and its eventual loss is the tragic affect: the gluttonous awareness that something has been lost, but it was something valuable.

In the case of Mehurban Khan the Proceedings follow this tendency with strange faithfulness, except in one definite variation. Classical tragedy puts anagnorisis in the context of the play, of which the audience and the protagonist understand. In comparison, the Proceedings generate awareness not in their institutional construct but to the reader who, with the interpretative apparatus used in this case, finds out the facts between which the Khan was feeling guilty: the narrative coherence of his narrative, the circumstantial and instrumentally tainted evidence against him, and his conviction on the basis of presumption instead of evidence.



The hamartia of the tragedy is, consequently, not in the vice but in status. Khan who was a subaltern in a colonial judiciary makes the fatal mistake of handing over to the same mechanism which would decide his fate. His testimony on the same, repeated, giving names of supposed murderers, and pleading innocent in four depositions over three years--is a quality both the most dignified and the most self-destructive in a colonial situation. A confession of being guilty would have brought a lighter sentence; persisting with it was understood by the court to be aggravation.

In this respect peripetia is multiplicative. Even the contributions that Khan has made in a coherent way are undermined: his list of supposed killers is rewritten as an indicator of his presence at the murder; his being late after amnesty, supposedly because his home was burnt, is rewritten as running. The rhetorical machine that sets innocence into guilt is unforgiving and powerful.

The anagnorisis, which is transferred to the administrative closure of a colonial judgment, which is most pivotal is not, unfortunately, the one which the reader but not the text undergoes. The nearest thing that Couper can say that it is--a concession that Khan probably was not with fugitives as high up as Mahua Dabar--is instantly absorbed by the change of fact to inference, of law to presumption. In that way, the tragic acknowledgement is an eternal projection and not an internal decision.

CONCLUSION: THE SUBALTERN VOICE AND THE LIMITS OF THE ARCHIVE

The depositions of Khan can be read as literary works only in a complex way. To begin with, it requires one to address the ethical mandate of critical fabulation by Saidiya Hartman that is a scholarly imperative to shed light on voices maintained in fragmented, imposed circumstances. In spite of the fact that the colonial deposition record is not written in a literary spirit, it is a text that fulfills the demands of attention and interpretive stringency of literary reading. To interpret it simply as an historical source, as a case of questioning antecedent guilt, is to run the risk of overlooking the archival text that exists despite its own constriction.

Second, it is not that Spivak has stopped textuality as she has criticized subaltern speech in a colonial discourse, but it is convincing nonetheless. The deposits are not silence they are a trace which goes beyond the institutional purpose. The voice of Khan as a piece of history is in itself an inviting element that cannot be treated with impunity, as it remains a piece of history that is consistent, articulated and coherent and therefore must not be allowed to perpetuate finality on the part of the colonial apparatus.



Third, the tragic side of colonial legal history cannot be understood as a mere metaphor. In the story, Khan represents the pure human concept of intelligence, dignity, loyalty to truth that is destroyed in a system that cannot recognize it. It is not the lack of belated recognition which the reader feels, but the merest compensation justice exacts and which the colonial system refused.

Lastly, this paper shows that literary tools of analysis, such as close reading, theory of genres, character analysis, narrative criticism are essential supplements to historical research. The Mahua Dabar Proceedings are also documents but of historical nature. When one reads them with the consideration of voice, structure, form and the gaps between what is said and what is meant, one can see in them the aspects of colonial past that cannot be analyzed empirically. Even though the statement that the deponent is not a rebel or a murderer is, or is not true, a testament to a man, within a most restrictive form, who opposed to an unbalanced institution and tried to maintain the dignity and wholeness of his narrative. Such a voice is worth academic attention.

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APPENDIX: KEY PASSAGES FROM THE 1860 PROCEEDINGS

A.1 Mehurban Khan's defence statement (February 23, 1859):

"The deponent is neither a rebel nor a murderer, nor an accomplice in the murder of any of the sahebs. He served Government as a Burkundaz in the Captaingunj tehseeldaree... On the following day the thannahdar and tehseeldar then sent the defendant to Mohwa Dabur to ascertain the names of the murderers; he learnt their names, and caused the same to be put down in the thannah diary." — Proceedings, No. 10



A.2 Special Commissioner Swinton's judgment:

"I am of opinion that it is clearly proved that, though the prisoner may not have been present at the time of the murder, he was an accomplice both before and after the fact, and one of the principal instigators of the crime... As there is no proof of his having been actually present when the murder was committed, I do not recommend capital punishment, but he ought, in my opinion, to be transported beyond sea for life." — Proceedings, No. 9

A.3 Secretary Couper's corrective letter:

"If there is one point in the whole case upon which there is less doubt than another, it is, that Mehurban Khan did not go to Mohwa Dabur with the fugitives... On the whole His Honor, I am directed to state, has no doubt that the prisoner Mehurban Khan was an accessory, before and after the fact, to the murder of the Europeans at Mohwa Dabur. The sentence of transportation for life adjudged by you is an appropriate one, and it may be carried out." — Proceedings, No. 11

A.4 Mehurban Khan's final deposition (August 17, 1860):

"The deponent was in the service of the Rajah of Nuggur, with whom he had made his escape to the western provinces; that he returned to his family at Burhumpore, Mohwa Dabur being levelled to the ground; that deponent was about to make his appearance, when his putteedar caused him to be arrested." — Proceedings, No. 10

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